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FIRST NAMED INVENTOR ATTORNEY DOCKET NO.

09/579,402

APPLICATION NO.

05/25/00

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11675.114.1

MMC2/0815

BRADLEY K DESANDRO WORKMAN NYDEGGER & SEELEY 1000 EAGLE GATE TOWER 60 EAST SOUTH TEMPLE SALT LAKE CITY UT 84111

FILING DATE

ART UNIT PAPER NUMBER

EXAMINER

2815

DATE MAILED:

08/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary Commonstrate Commonstrate Eugene Lee Eugene Lee Eugene Lee Part Unit Pa		·	Application No.	Applicant(s)		
Examiner Art Unit 2815	Office Action Summary					
Eugene Lee 2815						
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Peri d for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Eaderalors of team gray be existed under the provinces of 3 CFR 1.136(a). In one event, however, may a reply be timely filed at the period for reply repedited above is fees bean billey (90) days, as reply with the adultory minimum of thinty 100) days will be considered timely. If the period for reply repedited above is fees bean billey (90) days, as reply with the adultory minimum of thinty 100) days will be considered timely. If No period for reply repedited above is fees bean billey (90) days, as reply within the adultory minimum of thinty 100) days will be considered timely. If No period for reply repedited above is fees bean billey (90) days, as reply within the malling date of this communication. Falsien to reply within the set or extended period for reply will, by statutory period will appear and will reply set (0) (0) (0) (0) (0) (0) (0) (0) (0) (0)						
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 3 CFR 1.13(b), in no event, however, may a reply be limitly filled after 50; (b) MCNT15 from the mailing date of this communication, and the provision of 17 CFR 1.13(b), in no event, however, may a reply to limitly filled after 50; (b) MCNT15 from the mailing date of this communication, and the provision of 17 CFR 1.13(b), in no event, however, may a reply to limitly (100 days will be considered three). If the period for reply specification is the mail mail mailing date of this communication, and the provision of 17 CFR 1.13(b). Failure to reply within the set or ostended period for reply will, by statular, cause the application to become ABANDONED (35 U.S.C.§ 133). Any reply received by the offices bether thin there invariant after the mailing date of this communication, even if timely filled, may reduce any common provision of the provision						
2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-20 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 1-20 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are objected to by the Examiner. 10) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on 19 April 200 is: a) approved by disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some *c) None of: 1 Certified copies of the priority documents have been received in Application No. 3. opies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.	THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).					
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2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)	Attachment	(s)				

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (Paper No. 5) filed January 23, 2001 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. The applicant has not provided a Form PTO-1449.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.
- 3. Claims 1, 3 thru 11, and 13 thru 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Tseng '819. Tseng discloses (see, for example, FIG. 5) a N-FET (gate stack structure) comprising a thin gate oxide (gate oxide layer) 15, substrate (base semiconductor material layer) 11, first polysilicon layer (gate layer) 17, silicide layer (layer of refractory metal silicide) 19, cap oxide (undoped silicon dioxide cap) 21, sidewall spacers (spacer) 21, plug (contact plug) 31, and insulating layer 29. In column 6, lines 12-27, Tseng states that the insulating layer may be BPSG.

Claim Rejections - 35 USC § 103

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- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tseng '819. Tseng does not disclose the nonconductive material being composed of silicon nitride. However, it would have been obvious to one of ordinary skill in the art at the time of invention was made to use silicon nitride, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use (as a spacer) as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Response to Arguments

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

INFORMATION ON HOW TO CONTACT THE USPTO

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Lee whose telephone number is 703-305-5695. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie C. Lee can be reached on 703-308-1690. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Eugene Lee August 7, 2001

EDDIE LEE

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800